

"Misappropriation of property"

?DN

✓ 48.685 (7)(c)

→ (1)(av), (4m)(a) 3., (b) 3., (7)(c)

?DN

✓ 49.498 (3)(b) 1.

✓ 50.065 (7)(c)

→ (1)(br), (4m)(a) 3., (b) 3., (7)(c)

✓ 55.01 (4p)

✓ 55.043 (1)(a) (intro.)

✓ 55.043 (4) (intro.)

✓ (e)

✓ (f)

(5)

✓ 146.40 (4g) (a) 3.

✓ (4r) (b)

✓ 813.123 (1)(f)

→ (a), (am) 1., 2., 3.

✓ (5)(a) 3.a.

?D-N

939.74 (2)(b) >>>>

"material abuse"

→ "financial exploitation"

✓ 46.90 (3)(a)

✓ (b)

✓ (c)

✓ (4)(a) 1.

✓ (5)(a)

✓ (d) 2.

✓ (5m)(a)

✓ (6)(a)

✓ (b) (intro.)

✓ 1.

✓ 7.

✓ (8)(a)

✓ (c)

"county agency" in s. 46.90 → They change to
"elder adult-at-risk agency"

✓ 46.90 (1)(b)

✓ (2)^{and} (title)

✓ (3) (title)

✓ (a)

✓ (b)

✓ (c)

✓ (4) (a) 1.

✓ 2.

? (d)

✓ (5) (a)

✓ (5m) (a)

✓ (b)

✓ (c)

✓ (6) (a)

✓ (b) (intro.)

✓ 4.

✓ (8) (a)

✓ (b)

✓ (d)

"infirmities of aging"

✓ 46.286 (1) (intro.)

✓ (3) (a) (intro.)

✓ 46.90 (1) (c)

✓ (d)

✓ 51.01 (2g) (b)

✓ (3g)

✓ (5) (a)

✓ 55.001

✓ 55.01 (2)

✓ (3)

✓ 55.06 (2) (c)

✓ (11) (a)

✓ 880.01 (2)

✓ (4)

✓ (5)

✓ 940.285 (1) (b)

✓ (e)

✓ 940.295 (1) (hm)

✓ (t)

elder person

✓ 20.435 (1)(dh)

✓ 46.90 (1)(a)

✓ (c)

✓ (e)

✓ (f)

✓ (g)

✓ (3) (b)

✓ (5) (a)

✓ (b) 1.

✓ 2.

✓ 3.

✓ 4.

✓ (c)

✓ (d) 1.

✓ (f)

✓ (g)

✓ (5m) (a)

✓ (c)

✓ (6) (b) 1.

✓ 7.

D-N { 973,017 (5) (title)
(a) 1.
(b)

Questions for Laura Rose + Betty Abramson 7/13/04

- ① Two different agencies w/ overlapping populations intended? No
- ② limit "adult at risk" to below age 60? Yes
- ③ What to do with "elder person" def. in 46.90 v. "Elder adult at risk"? Delete "elder person"
- ④ ch. 146 definitions - to what are they to apply?
 - ① "Financial exploitation" - should replace "misappropriation of property"
 - ② def of "abuse" applies in 146.40 but not 146.82(2)(a) 9.a.

Kennedy, Debora

From: Rose, Laura
Sent: Tuesday, July 13, 2004 11:51 AM
To: 'bjabramson@wisc.edu'
Cc: Kennedy, Debora
Subject: questions on APS draft

Hi Betsy!

Debora came by this morning and raised some questions on the APS draft that I was unable to answer. Could you please help us? The questions are as follows:

1. Is it necessary to put parallel provisions in chs. 46 and 55? Why not just place a cross-reference to ch. 46 in ch. 55, since it is just one agency dealing with both populations?
2. The changes made to ch. 813 (restraining order) seem to relate only to the ch. 55 population (adults-at-risk). If the ch. 55 stuff is folded into ch. 46 and then just cross referenced in ch. 55, will the ch. 813 provisions have to be expanded to apply to the ch. 46 population (elder adults-at-risk)?
3. If the definition of "elder person" in ch. 46 supposed to be repealed? Or, is that definition just supposed to be amended to change the term "infirmities of aging" to "degenerative brain disorder"?

That's about it - it may be easier to talk about this than to email. Feel free to give me a call at 266-9791 at your earliest convenience!

Thanks,

Laura

Kennedy, Debora

From: Betsy J. Abramson [bjabramson@wisc.edu]
Sent: Wednesday, July 14, 2004 12:10 PM
To: Rose, Laura; Kennedy, Debora
Cc: Dawson, Linda; Raymond, Jane
Subject: Re: questions on APS draft



Rose - 7-14-04.doc

Laura: Thanks for the questions. See attached - note that it's a DRAFT response! Will call as soon as I have a little more clarity. Thanks for your patience. Betsy

At 11:50 AM 7/13/2004 -0500, Rose, Laura wrote:

>Hi Betsy!

>

>Debora came by this morning and raised some questions on the APS draft
>that I was unable to answer. Could you please help us? The questions are
>as follows:

>

> 1. Is it necessary to put parallel provisions in chs. 46 and
> 55? Why not just place a cross-reference to ch. 46 in ch. 55, since it
> is just one agency dealing with both populations?

>

> 2. The changes made to ch. 813 (restraining order) seem to
> relate only to the ch. 55 population (adults-at-risk). If the ch. 55
> stuff is folded into ch. 46 and then just cross referenced in ch. 55,
> will the ch. 813 provisions have to be expanded to apply to the ch. 46
> population (elder adults-at-risk)?

>

> 3. If the definition of "elder person" in ch. 46 supposed to be
> repealed? Or, is that definition just supposed to be amended to change
> the term "infirmities of aging" to "degenerative brain disorder"?

>

>That's about it - it may be easier to talk about this than to email. Feel
>free to give me a call at 266-9791 at your earliest convenience!

>

>Thanks,

>

>Laura

July 14, 2004

TO: Laura Rose and Debora Kennedy
FROM: Betsy Abramson
RE: Your e-mail questions on the APS drafts
CC: Jane Raymond and Linda Dawson

Thanks for your call and e-mails. Below are my responses, based on my thinking and recollections and a long conversation with Jane Raymond this morning. Linda Dawson is out of the office today so we have not been able to speak with her about it. I am writing this as a **first-draft** response; would appreciate being able to discuss with Linda before "finalizing" this response.

1. Is it necessary to put parallel provisions in chs. 46 and 55? Why not just place a cross-reference to ch. 46 in ch. 55, since it is just one agency dealing with both populations?

Yes, we prefer the parallel provisions. This is for a couple reasons.

(a) As was done with the Caregiver Misconduct law, where virtually identical provisions were put in child care caregiver and nursing home, etc., caregiver sections, we think it makes more sense to make sure that people looking in one set of the statutes find all the relevant law for "their" population right there, rather than cross-references, which people often don't do (e.g., most folks don't realize that everyone under court orders for services or placements in ch. 55 also have all the ch. 51 rights....)

(b) We've spent a lot of time in Wisconsin – and nationally – getting the public familiar with the concept of "elder abuse" – recognizing it, reporting it, etc. This has included public awareness, county designation of a specific agency to serve as lead elder abuse agency, and other activities. We fear we'd lose that "branding" or "public awareness" if we suddenly dropped the elder abuse component, or "minimized it" by just saying – see ch. 55.

(c) There is a specific legislative appropriation of Direct Service dollars for elder abuse services – only for folks over age 60; accordingly, we think there should be the two separate tracks.

(d) A county board may actually designate two separate agencies to serve the "older" and "younger" populations. For example, the county may elect to have its social services agency serve as the adult-at-risk intake agency and it may also elect to have its county aging unit serve as the elder adult-at-risk agency. This decision should remain at the local level.

2. The changes made to ch. 813 (restraining order) seem to relate only to the ch. 55 population (adults-at-risk). If the ch. 55 stuff is folded into ch. 46 and then just cross referenced in ch. 55, will the ch. 813 provisions have to be expanded to apply to the ch. 46 population (elder adults-at-risk)?

The restraining order of ch. 813 should be available to any Chapter 55 target population, which will include some older people as well. Chapter 55 is designed to capture the uniqueness of "vulnerable adults" (e.g., an individual with developmental disabilities, degenerative brain disorder or a quadriplegic who cannot gain access to help unless assisted). Section 46.90 is available to people who are age 60 and older, they do not need to be necessarily "vulnerable" for any reason other than age. Therefore, we have plenty of "healthy" 60, 70 and 80 year olds that

can use the existing "classic" D.V. restraining order for protection. The new restraining order is meant to address issues specific to "vulnerable" adults, e.g., the kicking of one's service animal and financial exploitation as two means of "hurting/abusing" that an adult-at-risk needs additional protection from. If you are age 60 or older AND you have a degenerative brain disorder, a developmental disability, a CMI, etc. then you could use the provisions set out for the Chapter 55 population and access Chapter 813 through ch. 55, or in some situations, someone or the "vulnerable adult" him or herself might pursue a ch. 813 restraining order by being a member of the ch. 55 target population without being an actual client of a ch. 55 adult-at-risk agency.

3. *Is the definition of "elder person" in ch. 46 supposed to be repealed? Or, is that definition just supposed to be amended to change the term "infirmities of aging" to "degenerative brain disorder"?*

(a) Yes, the definition of "elder person" is supposed to be repealed. ✓

(b) We noticed (blush, blush) that the term "degenerative brain disorder" is used three times in the draft – only providing definitions (in chs. 46, 55 and 940), but we couldn't find it actually *used* anywhere in ch. 46 or 55. Please do a search of ch. 46.90 and delete infirmities of aging wherever it appears BUT do not replace with degenerative brain disorder. In ch. 55 please replace "infirmities of aging" with "degenerative brain disorder" every time it appears. (We realize that you can't "just do that" as the committee had already voted, but I assumed Debora's draft will come up with a "Drafter's Note" that says something like, *"I assume it is your intention that I replace 'infirmities of aging' with 'degenerative brain disorder' every time it appears in ch. 55 because otherwise you have a definition without a use. Am I correct?"*) The assumption is that if you are an individual age 60 and older, you will use the protection afforded to all adults at risk in 55, rather than one that is based on age alone (46.90). If you re-defined the elder adult at risk as an individual age 60 OR an individual with a degenerative brain disorder than you could use 46.90 to serve people with degenerative brain disorders age 22, 34, 43, 50, etc. That then opens the 46.90 funds to the younger population with degenerative brain disorders. That is not our intent. Our intent is to use a new funding stream to expand services to the 18 – 59 year old population, not absorb them in current funding in 46.90.

Again, I'll call or send a final note after I've heard from both Jane (again) and Linda (first time). Thanks for the heads-up!

Kennedy, Debora

From: Betsy J. Abramson [bjabramson@wisc.edu]
Sent: Thursday, July 15, 2004 4:35 PM
To: Rose, Laura; Kennedy, Debora
Cc: Raymond, Jane; Dawson, Linda
Subject: Questions on APS draft

You can change that "draft" to final. Linda and Jane are fine with my comments. Thanks again! Betsy

Kennedy, Debora

From: Betsy J. Abramson [bjabramson@wisc.edu]
Sent: Wednesday, July 21, 2004 4:29 PM
To: Rose, Laura
Cc: Kennedy, Debora; Raymond, Jane
Subject: Re: another question



Rose 7-21-04.doc

Laura (and Debora!): Yes, we want them identical. See attached - our "rainbow response." I think/thought the purple language I highlighted in the 55 language WAS the same as the yellowed language in 46.90, but as I indicated, if it's not adequate, use the yellowed in both. Thanks for asking! Betsy

At 04:53 PM 7/19/2004 -0500, you wrote:

>Hi Betsy,

>

>Debora asked about the discrepancy between the two sections, below. The
>ch. 46 provision provides for either an agency response to the report or
>referral of the report to another agency for investigation. The ch. 55
>provision only provides for a response to the report. Should these two
>provisions be the same, or is there a reason for this difference? Other
>than that, they are basically the same.

>

>Please let me know what you think.

>

>Thanks!

>

>Laura

>

>SECTION 37. 46.90 (5) (a) of the statutes is renumbered 46.90 (5) (a) 2.

>and amended

>to read:

>46.90 (5) (a) 2. Except as otherwise provided, upon receiving a report of
>abuse, material

>abuse financial exploitation, neglect or self-neglect of an elder

>adult-at-risk, the county elder

>adult-at-risk agency shall either investigate respond to the report or

>refer the report to another

>agency for investigation. Upon receiving a report of abuse, material abuse

>financial

>exploitation, neglect or self-neglect of an elder person who resides in a
>community-based

>residential facility or a nursing home licensed under s. 50.03 or of an

>elder person who receives

>services from a home health agency licensed under s. 50.49 and the person

>suspected of

>abusing or neglecting the person is an employee of the home health agency

>a client of an entity,

>as described in s. 50.065, where the person suspected of abuse or neglect

>is a caregiver or a

>nonclient resident of the entity, the county elder adult-at-risk agency

>may not investigate the

>report but it shall refer the report within 24 hours after the report is

>received, excluding

>Saturdays, Sundays and legal holidays, to the department for

>investigation. The department

>shall coordinate its investigatory efforts with other investigatory

>authorities or agencies as

>appropriate. An investigation A county department's response to or an
>agency's investigation
>of a report of abuse, financial exploitation, neglect or self-neglect
>shall be commenced within
>24 hours after a report is received, excluding Saturdays, Sundays and
>legal holidays. An
>investigation of a report of material abuse shall be commenced within 5
>days after a report is
>received, excluding Saturdays, Sundays and legal holidays. If a report is
>referred to the
>department, pars. (b) to (g) (f) and sub. (6) do not apply to the department.
>
>
>SECTION 81. 55.043 (3) (a) (intro.) of the statutes is repealed and
>recreated to read:
>55.043 (3) (a) (intro.) Except as otherwise provided, if an adult-at-risk
>agency has
>reason to believe that an adult-at-risk has been the subject of abuse,
>financial exploitation,
>neglect or self-neglect, the adult-at-risk agency may respond to determine
>whether the
>adult-at-risk in question is in need of protective services. If an
>adult-at-risk agency has
>reason to believe that there is abuse, financial exploitation, neglect or
>self-neglect of an
>adult-at-risk who is a client of an entity, as defined in s. 50.065, and
>the person suspected of
>the abuse is a caregiver or nonclient resident of the entity, the
>adult-at-risk agency shall refer
>the report to the department within 24 hours after the report is received.
>The department shall
>coordinate its investigatory efforts with other investigatory authorities
>or agencies as
>appropriate. An adult-at-risk agency's response to or investigation of a
>report of abuse,
>financial exploitation, neglect or self-neglect shall be commenced within
>24 hours after a
>report is received, excluding Saturdays, Sundays, and legal holidays. The
>response or
>investigation may include one or more of the following:

Laura: Below is what you had e-mailed to me.

SECTION 37. 46.90 (5) (a) of the statutes is renumbered 46.90 (5) (a) 2. and amended to read:

Green
46.90 (5) (a) 2. Except as otherwise provided, upon receiving a report of abuse, material abuse financial exploitation, neglect or self-neglect of an elder adult-at-risk, the county elder adult-at-risk agency shall either ~~investigate~~ respond to the report or refer the report to another agency for investigation. Upon receiving a report of abuse, material abuse financial exploitation, neglect or self-neglect of an elder person who resides in a community-based residential facility or a nursing home licensed under s. 50.03 or of an elder person who receives services from a home health agency licensed under s. 50.49 and the person suspected of abusing or neglecting the person is an employee of the home health agency a client of an entity, as described in s. 50.065, where the person suspected of abuse or neglect is a caregiver or a nonclient resident of the entity, the county elder adult-at-risk agency may not investigate the report but it shall refer the report within 24 hours after the report is received, excluding Saturdays, Sundays and legal holidays, to the department for investigation. The department shall coordinate its investigatory efforts with other investigatory authorities or agencies as appropriate. ~~An investigation~~ A county department's response to or an agency's investigation of a report of abuse, financial exploitation, neglect or self-neglect shall be commenced within 24 hours after a report is received, excluding Saturdays, Sundays and legal holidays. ~~An investigation of a report of material abuse shall be commenced within 5 days after a report is received, excluding Saturdays, Sundays and legal holidays.~~ If a report is referred to the department, pars. (b) to (g) (f) and sub. (6) do not apply to the department.

SECTION 81. 55.043 (3) (a) (intro.) of the statutes is repealed and recreated to read:

Purple
55.043 (3) (a) (intro.) Except as otherwise provided, if an adult-at-risk agency has reason to believe that an adult-at-risk has been the subject of abuse, financial exploitation, neglect or self-neglect, the adult-at-risk agency may respond to determine whether the adult-at-risk in question is in need of protective services. ~~If an adult-at-risk agency has reason to believe that there is abuse, financial exploitation, neglect or self-neglect of an adult-at-risk who is a client of an entity, as defined in s. 50.065, and the person suspected of the abuse is a caregiver or nonclient resident of the entity, the adult-at-risk agency shall refer the report to the department within 24 hours after the report is received. The department shall coordinate its investigatory efforts with other investigatory authorities or agencies as appropriate.~~ An adult-at-risk agency's response to or investigation of a report of abuse, financial exploitation, neglect or self-neglect shall be commenced within 24 hours after a report is received, excluding Saturdays, Sundays, and legal holidays. The response or investigation may include one or more of the following:

~~WE ASSUME THE GREEN STUFF IS ALL DELETED – THAT THE STRIKE-THROUGHS JUST DIDN'T COME THROUGH ON THE CUT-AND-PASTE?~~

THE ~~YELLOWED~~ LANGUAGE FROM 46.90 SHOULD ALSO BE IN 55. LOOKS LIKE MOST OF IT IS THERE – IN THE ~~PURPLE~~. IF IT MAKES MORE SENSE TO MAKE IT IDENTICAL, GO TO IT AND USE THE YELLOW LANGUAGE IN BOTH!

Kennedy, Debora

From: Betsy J. Abramson [bjabramson@wisc.edu]
Sent: Wednesday, July 28, 2004 9:46 AM
To: Kennedy, Debora
Subject: Re: 46.90 vs. 55.043

Debora:

Sorry we misunderstood the question. YES, in response to your question, the two chapters should generally be identical, except for the county agency being able to use Elder Abuse direct services funds only for the 46.90 target group (the ELDER adults-at-risk). Betsy A.

At 04:05 PM 7/27/2004 -0500, you wrote:

>Laura's note indicates the specific differences between s. 46.90 (5) (a)
>and 55.043 (3) (a) (intro.). That was, however, only an example I gave
>her of numerous differences in language that exist between the two
>sections as a whole, as proposed. Is it generally your intent that the
>sections be identical (with certain additions for s. 55.043), or is that
>too general a statement?

>

>Debora A. Kennedy
>Managing Attorney
>Legislative Reference Bureau
>(608) 266-0137
>debora.kennedy@legis.state.wi.us

Kennedy, Debora

From: Rose, Laura
Sent: Friday, July 30, 2004 3:08 PM
To: Kennedy, Debora; 'bjabramson@wisc.edu'
Subject: RE: Problems with differences between ss. 46.90 and 55.043

Betsy, would you like to answer these questions? I myself am wondering about the difference between responding and investigating. If you think we need to get together to talk about this, let me know. I am out all next week at an NCSL training, but will be around after that.

Laura

-----Original Message-----

From: Kennedy, Debora
Sent: Wednesday, July 28, 2004 1:55 PM
To: 'bjabramson@wisc.edu'; Rose, Laura
Subject: Problems with differences between ss. 46.90 and 55.043

I am sorry, but we are going to have to go over these provisions again. If they are to be identical, and they differ, I need to know which provision to use as the model. The following is the exact language of two provisions, as proposed in WLC 0143/7. For the sake of clarity for this e-mail, I have removed striking and underscoring of amending language. Please look at them carefully; they differ at crucial points. Several questions follow the provisions, for which I need answers in order to determine what you want:

46.90 (5) (a) 2. Except as otherwise provided, upon receiving a report of abuse, financial exploitation, neglect or self-neglect of an elder adult-at-risk, the elder adult-at-risk agency shall either respond to the report or refer the report to another agency for investigation. Upon receiving a report of abuse, financial exploitation, neglect or self-neglect of a client of an entity, as described in s. 50.065, where the person suspected of abuse or neglect is a caregiver or a nonclient resident of the entity, the elder adult-at-risk agency shall refer the report within 24 hours after the report is received to the department for investigation. The department shall coordinate its investigatory efforts with other investigatory authorities or agencies as appropriate. A county department's response to or an agency's investigation of a report of abuse, financial exploitation, neglect or self-neglect shall be commenced within 24 hours after a report is received, excluding Saturdays, Sundays and legal holidays. If a report is referred to the department, pars. (b) to (f) and sub. (6) do not apply to the department.

55.043 (3) (a) (intro.) Except as otherwise provided, if an adult-at-risk agency has reason to believe that an adult-at-risk has been the subject of abuse, financial exploitation, neglect or self-neglect, the adult-at-risk agency may respond to determine whether the adult-at-risk in question is in need of protective services. If an adult-at-risk agency has reason to believe that there is abuse, financial exploitation, neglect or self-neglect of an adult-at-risk who is a client of an entity, as defined in s. 50.065, and the person suspected of the abuse is a caregiver or nonclient resident of the entity, the adult-at-risk agency shall refer the report to the department within 24 hours after the report is received. The department shall coordinate its investigatory efforts with other investigatory authorities or agencies as appropriate. An adult-at-risk agency's response to or investigation of a report of abuse, financial exploitation neglect or self-neglect shall be commenced within 24 hours after a report is received, excluding Saturdays, Sundays, and legal holidays. The response or investigation may include one or more of the following:

Here are my questions:

1. The EAARA (elder adult-at-risk agency) is required to respond or refer upon receipt of a report; the AARA (adult-at-risk agency) is authorized but not required to respond (but not refer), if it has "reason to believe;" which of these differences do you want?
2. The EAARA is required to respond or refer the report to another agency and to refer to DHFS if the alleged perpetrator is a caregiver or nonclient resident; the AARA is required to refer to DHFS if the alleged perpetrator is a caregiver or nonclient resident (this, by the way, conflicts with the fact that the AARA is not required to respond at all), but there is no mention of another agency; which do you want?
3. Why is the "county department" referred to instead of the EAARA in s. 46.90 (5) (a) 2.? I am baffled by this--use of that term makes it difficult to understand to what entity you intend that the 24 hour requirement apply--that is, does it

refer to responding or investigating 24 hours after a report is initially received or 24 hours after a report is initially referred?

4. Is there a difference between respond and investigate? In s. 55.043 (a) (intro.), the AARA is authorized to respond in the first sentence, but a later sentence refers to the AARA's "response to or investigation of" a report. Do you by that intend that the AARA can only investigate a report but can't investigate something that is not a report but is a "reason" for the AARA to respond?

These are only a few examples, in two provisions, of many differences between s. 46.90 and 55.043. In general, where these differences exist, do you want me to follow language you have proposed for s. 46.90 or for s. 55.043?

Debra A. Kennedy
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Kennedy, Debora

From: Kennedy, Debora
Sent: Wednesday, July 28, 2004 1:55 PM
To: 'bjabramson@wisc.edu'; Rose, Laura
Subject: Problems with differences between ss. 46.90 and 55.043

I am sorry, but we are going to have to go over these provisions again. If they are to be identical, and they differ, I need to know which provision to use as the model. The following is the exact language of two provisions, as proposed in WLC 0143/7. For the sake of clarity for this e-mail, I have removed striking and underscoring of amending language. Please look at them carefully; they differ at crucial points. Several questions follow the provisions, for which I need answers in order to determine what you want:

46.90 (5) (a) 2. Except as otherwise provided, upon receiving a report of abuse, financial exploitation, neglect or self-neglect of an elder adult-at-risk, the elder adult-at-risk agency shall either respond to the report or refer the report to another agency for investigation. Upon receiving a report of abuse, financial exploitation, neglect or self-neglect of a client of an entity, as described in s. 50.065, where the person suspected of abuse or neglect is a caregiver or a nonclient resident of the entity, the elder adult-at-risk agency shall refer the report within 24 hours after the report is received to the department for investigation. The department shall coordinate its investigatory efforts with other investigatory authorities or agencies as appropriate. A county department's response to or an agency's investigation of a report of abuse, financial exploitation, neglect or self-neglect shall be commenced within 24 hours after a report is received, excluding Saturdays, Sundays and legal holidays. If a report is referred to the department, pars. (b) to (f) and sub. (6) do not apply to the department.

55.043 (3) (a) (intro.) Except as otherwise provided, if an adult-at-risk agency has reason to believe that an adult-at-risk has been the subject of abuse, financial exploitation, neglect or self-neglect, the adult-at-risk agency may respond to determine whether the adult-at-risk in question is in need of protective services. If an adult-at-risk agency has reason to believe that there is abuse, financial exploitation, neglect or self-neglect of an adult-at-risk who is a client of an entity, as defined in s. 50.065, and the person suspected of the abuse is a caregiver or nonclient resident of the entity, the adult-at-risk agency shall refer the report to the department within 24 hours after the report is received. The department shall coordinate its investigatory efforts with other investigatory authorities or agencies as appropriate. An adult-at-risk agency's response to or investigation of a report of abuse, financial exploitation neglect or self-neglect shall be commenced within 24 hours after a report is received, excluding Saturdays, Sundays, and legal holidays. The response or investigation may include one or more of the following:

Here are my questions:

1. The EAARA (elder adult-at-risk agency) is required to respond or refer upon receipt of a report; the AARA (adult-at-risk agency) is authorized but not required to respond (but not refer), if it has "reason to believe;" which of these differences do you want?
2. The EAARA is required to respond or refer the report to another agency and to refer to DHFS if the alleged perpetrator is a caregiver or nonclient resident; the AARA is required to refer to DHFS if the alleged perpetrator is a caregiver or nonclient resident (this, by the way, conflicts with the fact that the AARA is not required to respond at all), but there is no mention of another agency; which do you want?
3. Why is the "county department" referred to instead of the EAARA in s. 46.90 (5) (a) 2.? I am baffled by this--use of that term makes it difficult to understand to what entity you intend that the 24 hour requirement apply--that is, does it refer to responding or investigating 24 hours after a report is initially received or 24 hours after a report is initially referred?
4. Is there a difference between respond and investigate? In s. 55.043 (a) (intro.), the AARA is authorized to respond in the first sentence, but a later sentence refers to the AARA's "response to or investigation of" a report. Do you by that intend that the AARA can only investigate a report but can't investigate something that is not a report but is a "reason" for the AARA to respond?

These are only a few examples, in two provisions, of many differences between s. 46.90 and 55.043. In general, where these differences exist, do you want me to follow language you have proposed for s. 46.90 or for s. 55.043?

8/25 Meeting re 03-4213 - Laura Rose, Betsy Abramson,
Hinda Dawson, Jane Raymond

✓ ① 46.90 (4) (ag) Create for 55.043 → [55.043 (1m) (bm)]

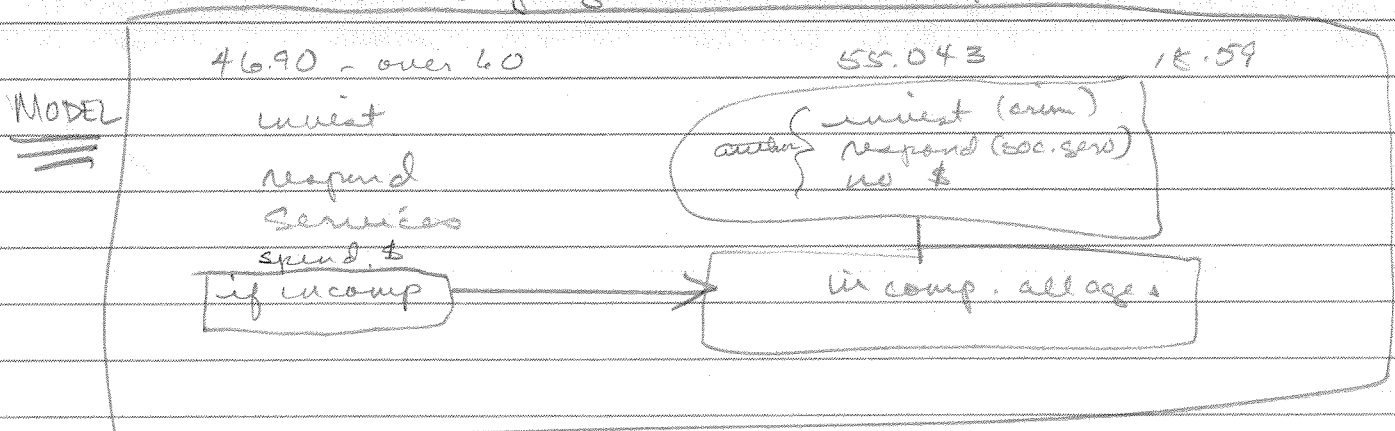
✓ ② 46.90 (4) (c) + 55.043 (1m) (d)

If 46.90 doesn't want services, can refer to ch. 55 for
protective services

✓ p. 14, l. 12 - change to EAA response on
investigative agency's investigation

46.90 ~~re~~

55- Agency that responds to 18.59 situations
+ to any age over 17 with impairment



Combine SEC 34 + SEC 44

→ No

To do: Separate immunities for report +
investigation + make same for each

✓✓ (3) 46.90 (4) (e) - 55.043 (1m) (f)

Separate; use (1m) (f) as model; put ~~process~~ good faith provision under & both investig. + report

✓✓ (4) 46.90 (5) (a) 1. - 55.043 (1r) (a) 1.

(a)

✓✓ p. 13, l. 16 - change to An ear's response to or an investigative agency's investig.

✓✓ p. 13, ll 21 + 22: repeal that sentence

✓✓ (5) 46.90 (5) (b) 4

55.043 (1r) (a) 4.

↓
add report

Make p. 14 match lang. on I p. 12 - add "caregiver" change to p. 14

✓✓ (6) 46.90 (5) (b) 6. a.

55.043 (1r) (b) 6. a.

conform → to 46.90 (5) (b) 6. a.

✓✓ ~~(8)~~ p. 14, l. 22 - change to caregiver

✓✓ (7) 46.90 (6) (~~but (inter.)~~) (b) 8. (can law) 55.043 (6) (b) 8.

p. 40, l. 22

55.043 (~~1r~~) (1g)

change to be like 46.90 (6) (b) 8. and refer to

✓✓ ~~(9)~~ p. 9, l. 13 + p. 29, l. 7: change to "notifying other investig. agencies, including law enforcement officials in approp. cases,

? (8) 46.90 (6)(br)(intro.)

55.043 (6)(br)(intro.)

✓ (9)

46.90 currently: agency completes a form that sends to state; agency keeps summary sheet with report - may keep in file
are trying to distinguish between report that has no identifi.; vs. getting record (used in ct.) that has all particulars

report = action

✓ The dept report form confid. + exceptions are (b)(b)
The record confid. + exceptions are (b)(bt)

p. 19 - ~~report~~ record = report form + any summary

report form - can't be released;

"~~departmental~~ ~~state~~ report form" - client identifiers removed - ~~discussed~~
~~can be viewed by anybody~~

p. 19, l. 2 = ~~use~~ "case summary" including "form"
~~submitted~~

✓ See changes to p. 19, l. 16-19

✓ See changes to p. 19, ll. 22-24

See change p. 21, l. 4

(NO)

8/30/04 Mtg: Betsy Abramson, Laura Rose, Linda Dawson,
Jane Raymond

✓ ① see TWS p. 11, l. 16 - Both types of agencies
should be able to investigate, as well as respond

✓ ② Keep elder adult at risk

✓ ③ p. 32, l. 23 - fix - use lang. of 55.043(2) for
46.90(5)(c)

✓ ④ p. 16, l. 7 46.90(5)(d)1. - use lang for
55.043(4) - see ch. p. 16, l. 7 + 10

✓ ⑤ p. 16, l. 11 - ~~reproduce~~ ^{Repeal} 46.90(5)(d)2.

Make both agencies + populations avail.
for orders under § 813.

✓ Make sure in 813 that lang. like this is specific enough.

✓ ⑥ p. 16, l. 16 - 46.90(5)(f) - reproduce for 55.043
, except say a-a-a agency shall either
initiate ^{under which} or contact law enf. ...

✓ ⑦ p. 17, 46.90(5)(h)
line 4 -

46.90(6)(by), 55.043(6)(by)
46.90(5)(h), 55.043(1r)(d)
46.90(4)(c), 55.043(1m)(d)

⑧ change "under lawful authority" - use:
"within the scope of ~~his~~ his or her authority"
use for responses + investigations in
46.90 + 55.043 -

check rumor for st + co employees

✓ ⑧ p. 17, l. 6 for 55.043, keep 1st + 3rd sentences,
but make permissive ↴ - If provided, those services
p. 17, l. 11 - add ch. 880

- ✓ (9) p. I 4, l. 5 - (46.90 (5m)(b) - Do NOT reproduce for 55.043
- ✓ (10) I p. 16, l. 7 -
REPEAL 55.043 (5)
DAK look at legis. history → Is taken care of by ~~conferencing~~ p. 13, l. 10 + 55.043 (1r)(a) 1g.
- ✓ (11) p. 19, l. 22 - line up 46.90 (6)(b) (intro.) w/
55.043 (6) (b) (intro.)
- ✓ (11) p. 20, ll. 4 - may inspect the deptl report form,
except - make change 55.043 (9)(b) 1-
p. 21, l. 5 - "report" shd be "deptl report forms"
- ✓ (12) p. 5, l. 2 - To the aar agency or other
investig. agency
p. 39, l. 17 to the elder adult at risk agency
or other invest. agency
- ✓ (13) See prev. notes 46.90 (6b) (intro.)
- ✓ (14) p. 22, l. 10 46.90 (6) (bt.) - + 55.043 - combine:
invests under sub. (2), policy under sub. (2)
change x ref. to (2) → to correct one (1g) for ch. 55.
DAK fix (3)(a) - 46.90
- ✓ (16) p. 22, l. 23 - add BOALTC to 55.043 (6)(c) ⁶.
- ✓ (17) p. 23, l. 9 - add BOALTC to 46.90 (6) (bt) 10.
- ✓ (18) 46.90 (7) (curr. law) - reproduce for 55.043

①

STATE OF WISCONSIN - LEGISLATIVE REFERENCE BUREAU - LEGAL SECTION
(608-266-3561)

* Identical
! Different
? other doesn't exist

46.90 and 55.043 COMPARISON

	CR, RP 46.90 (1)	✓	CR+RP 55.01		
	AM (2)	✓	CR * 55.043 (1d) (proposed (1))		
✓ 9	AM (3) (a)	✓	CR * (1g) (a) (proposed (2))		29
	AM (b)	✓	CR * (b)		
	AM (c)	✓	CR * (c)		
	CR (4) (ab)	✓	CR * (1m) (a) (proposed (3m))		
	CR (ad)	✓	CR * (b)		
	CR (ae)	✓	CR * (be)		
✓ 11	CR (ag) ✓ (9) (e)		[CR] 3 * (9m) (e) [(6m)]		I 16
	RA; (a) (ar)	✓	CR * (br)		
	(b) i.a.	✓	CR * (c) i.a.		
	AM b.	✓	CR * b.		
	AM RA 2 ✓ (9) (d)		CR * (9m) (d) 2		
	CR CM. 2 ✓		CR * d.		
I 3 ✓	Repealed in 2003 WA 33 2. 2. 1. 2. 3. 4. 5. 6. 7. 8. 9. 10. 11. 12. 13. 14. 15. 16. 17. 18. 19. 20. 21. 22. 23. 24. 25. 26. 27. 28. 29. 30. 31. 32. 33. 34. 35. 36. 37. 38. 39. 40. 41. 42. 43. 44. 45. 46. 47. 48. 49. 50. 51. 52. 53. 54. 55. 56. 57. 58. 59. 60. 61. 62. 63. 64. 65. 66. 67. 68. 69. 70. 71. 72. 73. 74. 75. 76. 77. 78. 79. 80. 81. 82. 83. 84. 85. 86. 87. 88. 89. 90. 91. 92. 93. 94. 95. 96. 97. 98. 99. 100.				36
I 3 ✓	AM b.	✓	CR * b.		36
I 3 ✓	AM c.	✓	CR * c.		36
✓ 12	AM (c)	✓	CR 1 * (d)		37
	AM (d)	✓	CR * (e)		
✓ 12	CR (e)	✓	CR 1 * (f)		37
✓ 12	RA; (5) (a) (5) (a) 1. (proposed 2.)	✓	RA; (1) (a) (intro) ! (1r) (a) 1. (proposed (3))		I 11
	CR 2.	✓	CR * 2. (proposed (3m))		I 14
14 ✓	AM (b) (intro)	✓	[CR] 2 * (b) (intro.)		I 14
	AM 1.	✓	RA; (1) (a) 2. *	1.	
	AM 2.	✓	RA; (1) (a) 1. *	2.	
	AM 3.	✓	CR *	3.	
✓ 14	AM 4.	✓	RA; (1) (a) 3. 1 *	4.	I 12
	AM 5.	✓	RA; (1) (a) 4. *	5.	
	CR 6. (intro.)	✓	RA; (1) (a) 5. *	6. (intro.)	
✓ 15	CR a.	✓	CR 1 *	a.	I 15
	CR b.	✓	CR *	b.	

15 ✓	CR	46.90	(5) (br) (intro.)	✓	RA (1)(b)(intro.)	* (1r)(c) (intro.)	(proposed as (3))	I 13
	CR		1.	✓	RA (1)(b) 1.	*	1.	
	CR		2. (intro.)	✓	RA (1)(b) 2. (intro.)	*	2. (intro.)	
	CR		a.	✓	RA (1)(b) 2. a	*	a.	
	CR		b.	✓	CR	*	b.	
	CR		c.	✓	RA (1)(b) 2. b.	*	(d) c.	(proposed as (3)) I 15
✓ 16	AM		(c)	✓	CR RA (2)(a)	* (2)(a)	(c)	32
✓ 16	AM RA; (d) 1.		(d)	✓	AM (3)	* (3)		33
✓ 16	AM RP		2.	✓		*		
✓ 16	AM		(f)	✓	CR	* (2)(b)		
	RP		(g)	✓				
16 ✓	CR		(h)	✓				
17 ✓	AM		(5m) (a)	✓	CR	* (4)(am)		
I 4 ✓	AM		(b)	✓		* NOT REPRODUCED	(b)	
	CR		(br) (intro.)	✓	AM (4) (intro.)	*	(4) (intro.)	(proposed as (6))
	CR		1.	✓	RA AM (4) (a)	*	1.	
	CR		2.	✓	RA AM (4) (b)	*	2.	
	CR		3.	✓	RA AM (4) (c)	*	3.	
	CR		4.	✓	RA AM (4) (d)	*	4.	
	CR		5.	✓	RA AM (4) (e)	*	5.	
	CR		6.	✓	RA AM (4) (f)	*	6.	
				✓	RP RA (5); (9)	*	RA	*
	AM		(c)	✓	CR	*	(5g) (as (7))	(proposed as (7))
				✓	CR	*	(6) (proposed as (8))	
	CR		(6) (ac) 1.+2.	✓	CR	*	(a) 1.+2.	
	RA		(a); (am)	✓	CR	*	(am)	
I 6 ✓	AM		(b) (intro.)	✓	CR	*	(b) (intro.)	39
20	AM		1.	✓	CR	*	1.	39
I 5	AM		2.	✓	CR	*	2.	39
	AM		3.	✓	CR	*	3.	
	AM		4.	✓	CR	*	4.	
	AM		5.	✓	CR	*	5.	
	AM		6.	✓	CR	*	6.	
	AM		7.	✓	CR	*	7.	

proposed as
(8)

✓	46.90 (6) (b) 8. ✓	CR ✗ *	55.043 (6) (b) 8. ✓	40
	CR 9. ✓	CR *	9.	
	CR 10. ✓	CR *	10.	
	CR (bd) ✓	CR *	(bd)	
21	CR (br) (intro.) ✓	CR ✗ *	(br) (intro.)	41
	CR 1. ✓	CR *	1.	
	CR 2. ✓	CR *	2.	
	CR 3. ✓	CR *	3.	
	CR (bt) (intro.) ✓	CR *	(bt) (g) (intro.)	
	CR 1. ✓	CR *	1.	
	CR 2. ✓	CR *	2.	
22	CR 3. ✓	CR ✗ *	3.	42
	CR 4. ✓	CR *	4.	
	CR 5. ✓	CR *	5.	
22	CR 6. ✓	CR ✗ *	6.	42
	CR 7. ✓	CR *	7.	
	CR 8. ✓	CR *	8.	
	CR 9. ✓	CR *	9.	
23	CR 10. ✓	CR ✗ *	10.	43
	CR 11. ✓	CR *	11.	
	CR 12. ✓	CR *	12.	
	CR 13. ✓	CR *	13.	
	CR (bv) ✓	CR *	(bv) (g) (a) ✓	
	CR (bw) ✓	CR *	(bw) (g) (a) ✓	
	CR (by) ✓	CR *	(by) (g) (a) ✓	
	RA; (6) (c) 1. ✓	CR *	RA; (6) (c) 1. ✓	
	RA 2. (b) ✓	CR *	RA 2. (b) ✓	
	RA 3. (c) ✓	CR *	RA 3. (c) ✓	
	(7) ✓	✗	(7)	
	AM (8) (a) ✓	CR *	AM (8) (a) ✓	
	AM (b) ✓	CR *	AM (b) ✓	
	AM (c) ✓	CR *	AM (c) ✓	
	AM (d) ✓	CR *	AM (d) ✓	
	CR (9) (a) ✓	CR *	CR (9) (a) ✓	
	CR (b) (5) (f) ✓	CR *	CR (b) (5) (f) ✓	
	CR (c) ✓	CR *	CR (c) ✓	

46.90 AS DRAFTED

- (1) DEFINITIONS
- (2) ~~COUNTY ELDER ADULT-AT-RISK~~ AGENCY DESIGNATION
- (3) ~~COUNTY ELDER ADULT-AT-RISK~~ AGENCY DUTIES
- (4) REPORTING
- (5) RESPONSE AND INVESTIGATIONS
- (5M) ~~PROVISION~~ OFFER OF SERVICES AND REFERRAL OF CASES
- (6) RECORDS; CONFIDENTIALITY
- (7) EXCEPTION
- (8) DEPARTMENT DUTIES
- (9) PENALTIES

55.043 AS PROPOSED

- (1) ADULT-AT-RISK AGENCY DESIGNATION
- (2) ADULT-AT-RISK AGENCY DUTIES
- (2m) INDEPENDENT INVESTIGATION
- (3) INVESTIGATION; POWERS
- (3m) REPORTING
- (4) LOCAL ENFORCEMENT ASSISTANCE
- (5) RESTRAINING ORDER; INJUNCTION
- (6) OFFER OF SERVICES
- (7) REFUSAL OF SERVICES
- (8) RECORDS; CONFIDENTIALITY
- (9) DEPARTMENT DUTIES

55.043 AS DRAFTED

- (1d) A-A-R AGENCY DESIGNATION
- (1g) A-A-R AGENCY DUTIES
- (1m) REPORTING
- (1r) RESPONSE AND INVESTIGATIONS;
~~POWERS~~
- (2) LOCAL ENFORCEMENT ASSISTANCE
- (3) RESTRAINING ORDER; INJUNCTION
- (4) OFFER OF SERVICES; REFERRAL
- ~~(5) APPLICABILITY~~
- (5g) REFUSAL OF SERVICES
- (6) RECORDS; CONFIDENTIALITY
- (7) EXCEPTION
- (8) DEPARTMENT DUTIES
- (9M) PENALTIES